

## **Legislative Bulletin.....September 22, 2010**

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### **H.R. 4347—Department of the Interior Tribal Self-Governance Act (Boren, D-OK)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** The Tribal Self-Governance Act amends the Indian Self-Determination and Education Assistance Act to increase self-governance by Indian tribes by creating new requirements for tribes participating in the program and establishing new guidelines for administering the program. Specifically, the bill amends the definition of “self-determination contract” to exempt contracts from being considered a procurement contract, and releasing it from being subject to any federal procurement law or regulations. Additionally, the bill applies compacts to funding agreements reached under Title IV. The bill removes the current policy that requires decisions that constitute final agency action and relates to an appeal of a refusal of request to be made either by the DOI, DHS, or an administrative judge. The bill also requires the burden of proof for contracts, through the preponderance of the evidence, to be placed on the Secretary and that all contracts must be negotiated in good faith to maximize implementation of the self-governance policy. In addition, H.R. 4347 allows Tribes to redesign or consolidate programs or services in a manner they deem appropriate if they can demonstrate that over the course of three fiscal years, the financial stability and financial management capability of the self-determination contracts of the Indian Tribe. The bill allows expenses incurred by the governing body of the Indian Tribe, and overhead incurred on the cost of a project, to be included in the cost of a contract if more than 50% of the expenses are pursuant to the contract or 100% of the expenses are derived from revenue from other governments or organizations.

The bill requires the Secretary of Interior to establish the Tribal Self-Governance Program and permits the Secretary to select up to 50 new Indian tribes per year from eligible Tribes to participate in self-governance. In order to qualify as eligible, the bill requires Tribes to complete a planning phase, officially request participation in self-governance, and demonstrate that over the course of three fiscal years, the financial stability and financial management capability of the self-determination contracts of the Indian Tribe. The bill allows Tribes to withdraw from participation in a tribal organization and remain entitled to its Tribal share of funds and resources supporting the programs that the Indian Tribe is entitled to carry out under the compact and funding agreement of the Indian tribe. The bill also establishes a withdrawal process and distribution of funds for a self-determination compact or contract. The bill requires all compacts to specify the general terms of the government-to-government relationship between the Indian tribe and the Secretary and include terms as the parties intend to control during the term of the compact.

Additionally, H.R. 4347 requires the Secretary to negotiate and enter into funding agreements with the governing body of a Tribe or tribal organization. The bill allows a funding agreement to authorize Tribes to plan, conduct, consolidate, administer, and receive full tribal share funding for all programs carried out by the Bureau of Indian Affairs, the Office of the Assistant Secretary for Indian Affairs, and the Office of Special Trustee, without regard to the agency or office within which the program is performed, including funding for agency, area, and central office functions. However, the bill provides the Secretary with continued discretion over certain programs that involved the reallocation and consolidation of conditions regarding construction and provides the Secretary the discretion to reassume any program and associated funding upon certain

findings. The bill requires the funding agreements to be subject to audits and requires them to comply with applicable Office of Management and Budget cost principles. Funding agreement must also include a provision to monitor the performance of trust functions by the Tribe through an annual trust evaluation and allows the Secretary to reassume a program and associated funding if there is imminent jeopardy to a trust asset, natural resources, or the public health. If the Secretary and Tribe are unable to agree on the terms of a compact or funding agreement, the Tribe may submit a final offer to the Secretary with the federal government bearing the burden of proof. The bill allows Tribes to carry out construction projects under Title IV of funding agreements, authorizes multi-year funding agreements, payment procedures, and requires the President to identify the annual budget request submitted to Congress all amounts necessary to fully fund all funding agreements entered into under the bill. Finally, ***the bill authorizes such sums to carry out the provisions outlined under Title IV of the bill.***

**Additional Information:** Title I of the Self-Determination and Education Assistance Act authorizes and sets forth criteria for the contracting program within the Department of the Interior and the Department of Health and Human Services. Title I allows Tribes to enter into contracts to perform functions performed by the federal government that are limited to programs that are authorized under specified laws or that are for the benefit of Indian tribes. Title IV authorizes and sets forth criteria for the self-governance program at the Department of the Interior (DOI). Under Title IV, Indian Tribes have the primary responsibility for the management and operation of DOI programs such as education, roads, housing, law enforcement, Tribal courts and natural resources. The total number of Tribes participating in DOI Self-Governance under Title IV has increased to a total of 260 Tribes.

In 1988, Congress passed legislation allowing the Secretary of the Interior to negotiate self-governance compacts with 20 Indian tribes on a demonstration basis allowing the tribes to plan, administer, and consolidate programs and services that had previously been under the sole administrative authority of the Department of Interior. Over the past few decades, Congress has passed additional legislation expanding the authority and the number of Indian tribes eligible to enter into self-governance compacts with DOI. According to a report issued by the GAO, tribes that engaged in self-governance had greater gains in employment levels from 1990 to 2000 compared to tribes that participated less in the program. They also noted that self-governance tribes experienced positive growth in employment levels and per capita income.

**Committee Action:** On December 16, 2009, the bill was referred to the Committee on Natural Resources. On July 16, 2010, the committee held a mark-up and ordered the bill to be reported as amended by a voice vote.

**Administration Position:** No Statement of Administration Policy (SAP) is available. However, the Department of Interior testified that the bill “would potentially reduce the secretary’s discretion to reallocate funds among different programs as a result of changing priorities and the emergence of new critical needs.”

**Cost to Taxpayers:** According to CBO, implementing H.R. 4347 “would cost \$5 million over the 2011-2015 period. Enacting H.R. 4347 would not affect direct spending or revenues. DOI would use those funds to hire additional staff and to make technical upgrades to computer equipment to carry out the administrative activities required under the bill.” However, *the bill authorizes “such sums” to carry out Title IV of H.R. 4347.*

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Committee Report 111- 603 states H.R. 4347 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

**Constitutional Authority:** Committee Report 111-603 states Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

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**H.R. 5811—To amend the Ysleta del Sur Pueblo and Alabama and Coughatta Indian Tribes of Texas Restoration Act to allow the Ysleta del Sur Pueblo Tribe to determine blood quantum requirement for membership in that tribe (*Reyes, D-TX*)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 5811 amends the Ysleta del Sur Pueblo and Alabama and Coughatta Indian Tribes of Texas Restoration Act to allow any person of Tigua Ysleta del Sur Pueblo Indian blood to be enrolled by the tribe.

**Additional Information:** Located in El Paso, Texas, the Ysleta del Sur Pueblo is the oldest community in Texas and the only pueblo still in existence in the state and contains approximately 1,300 tribal members. Passed in 1987, the Ysleta del Sur Pueblo and Alabama and Coughatta Indian Tribes of Texas Restoration Act requires tribal members to meet a 1/8 blood quantum requirement for membership into the Tribe. According to the Committee, “if the current blood quantum requirements remain in effect, tribal membership will decline significantly within three generations. In 2000, 27 individuals were removed from the Tribe’s rolls because their blood quantum was determined to be below the requisite minimum mandated by law. Upon enactment of this measure, these individuals and others would be eligible to petition for enrollment. It is estimated that passage of this legislation would allow for an additional 857 members to be enrolled in the Tribe.”

**Committee Action:** On July 21, 2010, the bill was introduced and referred to the Committee on Natural Resources, which took no further subsequent public action.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** A CBO score for the bill was not available at press time.

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** A committee reporting citing compliance with the rules regarding earmarks, limited tax benefits, or limited tariff benefits is not available.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable at press time.

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## **H.R. 5110 - Casa Grande Ruins National Monument Boundary Modification Act of 2010 (*Kirkpatrick, D-AZ*)**

**Order of Business:** The legislation is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill

**Summary:** H.R. 5110 authorizes the Secretary of the Interior to acquire, from “willing land owners,” the private, state, and federal lands or interests that will be included in the Casa Grande Ruins National Monument. The monument expansion could be as much as 417 acres. Additionally, the bill authorizes the Department of the Interior to conduct a study to identify additional land to include in the monument. A report on the study will be sent to the House Natural Resources Committee, and the Senate Energy and Natural Resources committee.

**Additional Information:** According to CBO, “DOI would be authorized to acquire 417 acres of land through donation, exchange, or purchase (using donated or appropriated funds) to expand the boundary of the monument. About 205 acres of that land is owned by private entities, of which CBO expects roughly two-thirds would be acquired through purchase. About 200 acres of land is owned by the state of Arizona and would most likely be jointly administered by the state and the federal government (as authorized by the bill) over the next few years. Other land that would be added to the monument is currently administered by the Bureau of Land Management and the Bureau of Indian

Affairs. The legislation would transfer administrative jurisdiction of that land to the National Park Service.

**Conservative Concerns:** Some conservatives have expressed concern that this legislation spends at least \$8 million to expand the jurisdiction of a national monument. At a time when the National Park Service currently has a multi-billion dollar maintenance backlog, some conservatives may believe that adding an additional piece to the NCLS area to a system that is already overburdened is irresponsible. Some conservatives have also expressed concern that while the bill states land can only be acquisitioned by a “willing owner,” the bill does nothing to expressly prohibit the Secretary of the Interior from using his existing eminent domain authority to take the land from an unwilling seller. Additionally, the Democratic majority should not be focused on consistently expanding the size and scope of the federal government and instead focus on economic reforms so people will have jobs, pay mortgages and provide for their families.

**Committee Action:** H.R. 5110 was introduced on April 22, 2010, and referred to the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands. A full committee markup was held on July 22, 2010. Rep. Bishop offered a substitute amendment that was not agreed to by voice vote, but then another substitute amendment was agreed to. The legislation was then agreed to by voice vote, as amended.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** A CBO estimates that H.R. 5110 would cost \$7 million over the 2011-2015 period, assuming appropriated amounts. CBO estimates that the cost of the study, as well as the cost of administering land acquired under the bill, would total about \$1 million over the next five years.

**Does the Bill Expand the Size and Scope of the Federal Government?** Yes. The legislation increases the size of a national monument by 417 acres.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Committee Report 111- 598 states H.R. 5110 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

**Constitutional Authority:** Committee Report 111-598 states Article I, section 8 and Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

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## **H.R. 4823 - Sedona-Red Rock National Scenic Area Act of 2010** **(Kirkpatrick, D-AZ)**

**Order of Business:** The legislation is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill

**Summary:** H.R. 4823 would establish the Sedona-Red Rock National Scenic Area in Coconino National Forest, Arizona. The park shall consist of 160,000 acres that is currently within the Coconino National Forest. The bill requires the Secretary of Agriculture to administer the Scenic Area. In an event of conflict between H.R. 4823 and such other laws and regulations, the regulations prescribed under H.R. 4823 shall take precedence. Land exchanges that dispose of National Forest System land included in the Scenic Area may occur only if:

- “The exchange results in the acquisition of land within the boundaries of the Scenic Area from a willing seller for inclusion in the Scenic Area;
- “There is no net loss of National Forest System land within the boundaries of the Scenic Area; and
- “An environmental analysis in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and consistent with the applicable forest plan amendment is completed before any land exchange within the boundaries of the Scenic Area.”

**Additional Background:** According to CBO, the Forest Service already restricts land exchanges within the proposed scenic area in accordance with the Coconino National Forest Plan under current law. Based on information from the Forest Service, CBO expects that, under current law, no land exchanges would occur on those lands over the next 10 years.

According to the Committee, “while tourism has become the driving economic force in the area, it has brought with it increased pressures on the health of the Forest, and on the preservation of the famous Red Rock views. A dramatic increase in visitors to the Forest has resulted in the degradation of trails, watersheds and pristine areas, while rapid development on the Forest's edge threatens the scenic vistas of the Red Rocks.” H.R. 4823 would designate approximately 160,000 acres of the park a “Scenic,” which would prohibit the federal government from participating in land exchanges in the area prescribed under the bill.

**Committee Action:** H.R. 4823 was introduced on March 11, 2010, and referred to the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands. A full committee markup was held on July 22, 2010, and a substitute amendment by Rep. Bishop was agreed to by voice vote. The legislation was then amended by Rep. Bishop on behalf of Rep. Flake. The legislation was then approved by voice vote, as amended.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** CBO estimates that implementing the legislation would have no significant impact on the federal budget.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. The legislation creates the Sedona-Red Rock National Scenic Area.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Committee Report 111- 599 states H.R. 4823 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

**Constitutional Authority:** Committee Report 111-599 states Article I, section 8 and Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

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## **H.R. 4195—To authorize the Peace Corps Commemorative Foundation to establish a commemorative work in the District of Columbia and its environs, and for other purposes (*Farr, D-CA*)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** The bill allows the Peace Corps Commemorative Foundation to establish a commemorative work on federal land in the District of Columbia. The purpose would be to commemorate the formation, and honor the ideals, of the Peace Corps. The bill prohibits federal funds from being used to pay any expense of the establishment of the commemorative work and clarifies that the Peace Corps Commemorative Foundation is to be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the commemorative work. If a balance of funds received for the establishment of the commemorative work remains, the Peace Corps Commemorative Foundation is required to transmit the amount of the balance to the Secretary of the Interior.

**Additional Information:** In 1960, President Kennedy signed an executive order establishing the Peace Corps as a federal agency. Since that time, approximately 200,000 Peace Corps Volunteers have served in 139 host countries to train local people in technologies and issues including agricultural production, water quality improvement, basic education, AIDS education, information technology and environmental preservation. According to the Committee, “the Foundation envisions that the memorial will be ‘an experiential landscape in which to stroll, gather, rest and meditate,’ rather than



a statue or building, and is seeking a ‘small, little-used, yet visible site near Washington's Monumental Core.’”

**Committee Action:** On December 3, 2009, the bill was introduced and referred to the Committee on Natural Resources. On July 22, 2010, the committee held a mark-up and ordered the bill to be reported as amended by unanimous consent.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** According to CBO, H.R. 4195 “would affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effect on the budget of enacting the legislation would be insignificant in any year.”

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Committee Report 111- 602 states H.R. 4195 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

**Constitutional Authority:** Committee Report 111-602 states Article I, section 8 and Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

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## **H.R. 5494—To direct the Director of the National Park Service and the Secretary of the Interior to transfer certain properties to the District of Columbia (*Del. Norton, D-District of Columbia*)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** The bill requires, within 90 days, the Secretary of Interior to transfer all right, title, and interest of the lands that reside on Shaw Junior High Recreation Fields, Southwest Library, Meyer Elementary School, Subdivision Book 134, and two portions of the Marie H. Reed Community Learning Center to the District of Columbia.

**Additional Information:** According to CBO, the properties to be conveyed under H.R. 5494 include school recreation fields, a traffic island, and educational facilities. None of the properties is used by the federal government, no income is generated from them, and CBO expects that none of the parcels would otherwise be sold under current law.

**Committee Action:** On June 9, 2010, the bill was introduced and referred to the Committee on Natural Resources. On July 22, 2010, the committee held a mark-up and ordered the bill to be reported as amended by unanimous consent.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** According to CBO, H.R. 5494 “would have no significant effect on the federal budget. Enacting the legislation would not affect revenues or direct spending; therefore, pay-as-you-go procedures do not apply.

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Committee Report 111- 605 states H.R. 5494 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

**Constitutional Authority:** Committee Report 111-605 states Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

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## **H.R. 5131 - Coltsville National Historical Park Act (*Larson, D-CT*)**

**Summary:** H.R. 5131 establishes the Coltsville National Historical Park in the city of Hartford, Connecticut. The park will be established by the National Park Service (NPS), once they have obtained a sufficient amount of property at the proposed site. The NPS would acquire the land through donation. Although some of the property within the park would remain in private hands, the NPS would be authorized to restore the property and its structures.

The Secretary is required to enter into a written agreement with the State of Connecticut State Library, Wadsworth Atheneum, and the Colt Trust, or other public entities, as appropriate, to gain appropriate access to Colt-related artifacts for the purposes of having items routinely on display within the park.

H.R. 5131 also establishes the Coltsville National Historical Park Commission, which will advise the Secretary in the development and management of the park consisting of 11 members, all appointed by the Secretary.

This legislation authorizes \$10 million to be appropriated.

**Additional Background:** According to the Committee, “Coltsville is the historic location of the industries and residences associated with Samuel Colt, one of the nation's preeminent and historic arms manufacturers. From before the Civil War through World War II, Colt produced a variety of armaments on this site that are universally recognized as representative of the American arms industry. The Colt factory produced such famous weapons as the Gatling Gun, the Colt .45 ‘Peacemaker,’ the Colt Browning .30 and .50 caliber machine guns, and the M16A4 Rifle. The proposed park site would help trace the history of industrialized and mechanized arms manufacturing and tell the story of the workers involved in the process.”

The infrastructure the Colt family developed to help establish its plant in Hartford--the worker cottages, the local church, and the actual armory complex--are still intact and paint a vivid picture of life in an industrial town during the 19th and 20th centuries. The area included in the park designation would include the East Armory, the Church of the Good Shepherd, the Caldwell/Colt Memorial Parish House, Colt Park, the Potsdam Cottages, Armsmead (the Samuel Colt Home, an existing National Historic Landmark), and the James Colt House.

In 2003, the Coltsville Study Act was passed into law, requiring the National Park Service to make recommendations about adding Coltsville to the National Park system. In 2008, the National Park Service designated Coltsville as a National Historic Landmark.

**Conservative Concerns:** Some conservatives have expressed concern that this legislation spends at least \$10 million to *create a new national park the Department of Interior does not even want*. At a time when the National Park Service currently has a multi-billion dollar maintenance backlog, some conservatives may believe that adding an additional piece to the National Park System that is already overburdened is irresponsible. Some conservatives have also expressed concern that while the bill states land can only be acquisitioned by a “willing owner,” the bill does nothing to expressly prohibit the Secretary of the Interior from using his existing eminent domain authority to take the land from an unwilling seller. Additionally, the Democratic majority should not be focused on consistently expanding the size and scope of the federal government and instead focus on economic reforms so people will have jobs, pay mortgages and provide for their families.

**Committee Action:** H.R. 5131 was introduced on April 22, 2010, and referred to the House Natural Resources Subcommittee on National Parks, Forests, and Public Lands. A full committee markup was held on July 22, 2010, the legislation was approved by voice vote, as amended.

**Administration Position:** Stephen Whitesell, Associate Director for Park Planning, Facilities, and Lands, of the National Park Service, testified [against H.R. 5131](#).

“The Department does not support enactment of this legislation due to the uncertainty associated with the ownership and long-term financial sustainability of the Coltsville development project as concluded by the National Park Service (NPS) in a special resource study of the resources associated with the Coltsville Historic District. In concert with this lack of feasibility, the study was also unable to determine the need for NPS management, or specifically which resources the NPS would manage.”

**Cost to Taxpayers:** CBO estimates that implementing H.R. 5131 would cost about \$1 million over the 2011-2015 period and about \$10 million over the 2011-2020 period.

**Does the Bill Expand the Size and Scope of the Federal Government?** Yes, the bill creates a new national park.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Committee Report 111- 596 states H.R. 5131 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

**Constitutional Authority:** Committee Report 111-596 states Article I, section 8 and Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

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## **H.R. 5152—Kennesaw Mountain National Battlefield Park Boundary Adjustment Act of 2010 (Gingery, R-GA)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** The bill authorizes the Secretary of Interior to acquire, from willing owners only, land or interests along the boundary of the Kennesaw Mountain National Battlefield Park that includes approximately 8 acres identified as “Wallis House and Harriston Hill” and is generally depicted as the National Park Service map as the “Kennesaw Mountain National Battlefield Park, Proposed Boundary Adjustment.”

**Additional Information:** Originally established in 1917, the National Park Service’s Kennesaw Mountain Battlefield Site commemorates a Civil War battle that proved a major turning point for the Union Army and the eventual fall of Atlanta. According to the committee, “his boundary adjustment will include areas associated with the historic Wallis House and Harriston Hill. Wallis House is one of the few remaining structures associated with the battle, while Harriston Hill was strategically significant as the Union

signal station. Cobb County is the current owner of the eight acres of property and has expressed a desire to donate the land to the National Park Service once the park is authorized to receive it.”

**Committee Action:** On April 27, 2010, the bill was introduced and referred to the Committee on Natural Resources. On July 22, 2010, the committee held a mark-up and ordered the bill to be reported as amended by unanimous consent.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** According to CBO, H.R. 5152 “would cost about \$1 million over the next five years, assuming appropriation of the necessary amounts. Enacting H.R. 5152 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.”

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Committee Report 111- 606 states H.R. 5152 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

**Constitutional Authority:** Committee Report 111-606 states Article I, section 8 and Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

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## **H.R. 5194—Mt. Andrea Lawrence Designation Act of 2010 (McKeon, R-CA)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** The bill designates peak 12,240 located 0.6 miles northeast of Donahue Peak on the northern border of the Ansel Adams Wilderness and Yosemite National Park to be known as Mt. Andrea Lawrence.

**Additional Information:** Andrea Mead Lawrence competed in the 1948 Winter Olympics in St. Moritz, Switzerland, and the 1956 Winter Olympics in Cortina d'Ampezzo, Italy, and was the torch lighter at the 1960 Winter Olympics in Squaw Valley, California. At the 1952 Olympics she won two Gold Medals in the Olympic

special and giant slalom races and remains the only United States double-gold medalist in alpine skiing. In 1958, she was inducted into the U.S. National Ski Hall of Fame in 1958 at the age of 25.

In 1968, she moved to Mammoth Lakes in the Eastern Sierra of California. Later, she founded the Friends of Mammoth to with the primary purpose to maintain the beauty and serenity of Mammoth Lakes and the Eastern Sierra. Additionally, she served for 16 years on the Mono County Board of Supervisors making preservation issues a priority. She passed away on March 31, 2009, at 76 years of age.

**Committee Action:** On April 29, 2010, the bill was introduced and referred to the Committee on Natural Resources. On July 22, 2010, the committee held a mark-up and ordered the bill to be reported as amended by unanimous consent.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** According to CBO, “enacting H.R. 5194 would have no significant effect on the federal budget. Enacting H.R. 5194 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.”

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Committee Report 111-595 states H.R. 5194 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

**Constitutional Authority:** Committee Report 111-595 states Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

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## **H.Con.Res. 294 - Commemorating the 75th Anniversary of the Blue Ridge Parkway (*Perriello, D-VA*)**

**Order of Business:** The resolution is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** H.Con.Res. 294 resolves that the House of Representatives:

- “Commemorates the 75th Anniversary of the Blue Ridge Parkway; and

- “Acknowledges the historic and enduring scenic, recreational, and economic value of this unique national treasure.”

The resolution contains a number of findings, including:

- “The Blue Ridge Parkway links the Great Smoky Mountains National Park to the Shenandoah National Park, providing 469 scenic miles for motor recreation along the crest of the Blue Ridge Mountains in North Carolina and Virginia;
- “On November 24, 1933, at the recommendation of Virginia Senator Harry Byrd, Secretary of the Interior Harold Ickes approved construction of the new highway to connect the Great Smoky Mountains National Park with the Shenandoah National Park;
- “The Blue Ridge Parkway was established by Congress as a unit of the National Park Service on June 30, 1936;
- “The Blue Ridge Parkway is the most visited unit of the National Park Service with nearly 20 million visitors each year;
- “This crown jewel of the National Park Service deserves the support of Congress to preserve its ecological and cultural integrity, maintain its infrastructure, and protect its famously scenic views.”

**Committee Action:** H.Con.Res. 294 was introduced on June 30, 2010, and referred to the House Natural Resources Subcommittee on National Parks, Forests and Public Lands, which took no public action.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** A CBO score is unavailable.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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**H.Res. 1503 - Expressing support for the goals and ideals of National Estuaries Day (*Castor, D-FL*)**



**Order of Business:** The resolution is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** H.Res. 1503 resolves that the House of Representatives:

- “Supports the goals and ideals of National Estuaries Day;
- “Acknowledges the importance of estuaries to the Nation's economic well-being and productivity;
- “Recognizes the persistent threats that undermine the health of the Nation's estuaries;
- “Applauds the work of national and community organizations and public partners to promote public awareness, protection, and restoration of estuaries; and
- “Reaffirms its support for estuaries, including the preservation, protection, and restoration thereof, and expresses its intent to continue working to protect and restore the estuaries of the United States.”

The resolution contains a number of findings, including:

- “The estuary regions of the United States comprise a significant share of the national economy, with 43 percent of the population, 40 percent of employment, and 49 percent of economic output located in such regions;
- “More than 43 percent of all adults in the United States visit a sea coast or estuary at least once a year to participate in some form of recreation, generating \$8,000,000,000 to \$12,000,000,000 in revenue annually;
- “Estuaries provide critical ecosystem services that protect human health and public safety, including water filtration, flood control, shoreline stabilization and erosion prevention, and protection of coastal communities during extreme weather events;
- “**Sea level rise** is accelerating the degradation of estuaries by submerging low-lying lands, eroding beaches, converting wetlands to open water, exacerbating coastal flooding, and increasing the salinity of estuaries and freshwater aquifers; and
- “September 25, 2010, has been designated National Estuaries Day to increase awareness among all citizens, including local, State, and Federal officials, about the importance of healthy estuaries and the need to protect and restore them.”

**Committee Action:** H.Res. 1503 was introduced on July 1, 2010, and referred to the House Natural Resources Subcommittee on Insular Affairs, Oceans and Wildlife, which took no public action.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** The resolution would not authorize any additional expenditures.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.



**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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### **H.Res. 1508 - Celebrating the 200th Anniversary of John James Audubon in Henderson, Kentucky (Whitfield, R-KY)**

**Order of Business:** The legislation is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** H.Res. 1508 resolves that the House of Representatives:

- “Honors John James Audubon for his life's contribution to nature and art in Henderson, Kentucky, for 200 years and the continued showcase of his life, nature, and art at the John James Audubon State Park & Museum.”

The resolution contains a number of findings, including:

- “John James Audubon arrived in the river town of Henderson, Kentucky, in 1810 with his wife and infant son, determined to make his fortune;
- “Audubon loved the frontier spirit in Henderson, and throughout his years there, he roamed the woods, observing and painting the many species of birds abundant in the area;
- “He went on to publish his ornithological works in the masterpiece, ‘The Birds of America’; and
- “In celebration of the bicentennial of Audubon's 1810 arrival in Henderson County, the Friends of Audubon, Ohio Valley Art League, and the Kentucky Department of Fish & Wildlife Resources are planning a full slate of events, which can be found at [www.audubon2010.com](http://www.audubon2010.com).”

**Committee Action:** H.Res. 1508 was introduced on July 1, 2010, and referred to the House Natural Resources Subcommittee on Insular Affairs, Oceans and Wildlife, which took no public action.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** The resolution would not authorize any additional expenditures.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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## **Senate Amendment to H.R. 1454 - Multinational Species Conservation Funds Semipostal Stamp Act (Brown, R-SC)**

**Order of Business:** The legislation is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 1454 directs the United States Postal Service (USPS) to issue a special postage stamp that would cost 15% more than the regular rate. This special rate shall be a number that is evenly divisible by 5.

Any income from this special stamp would be transferred to the United States Fish and Wildlife Service (USFWS). The program would last at least two years.

The USFWS would use these funds on programs to support the following funds:

- “The African Elephant Conservation Fund;
- “The Asian Elephant Conservation Fund;
- “The Great Ape Conservation Fund;
- “The Marine Turtle Conservation Fund;
- “The Rhinoceros and Tiger Conservation Fund; and
- “Other international wildlife conservation funds authorized by the Congress after the date of the enactment of this Act and administered by the Service as part of the Multinational Species Conservation Fund.”

Under the previous House passed version of H.R. 1454 the special rate would have cost 25% more, and the program would have been terminated after 5 years. The Senate passed version also lists specific funds of which proceeds are to be evenly distributed to.

**Committee Action:** H.R. 1454 was introduced on March 12, 2009, and referred to the Oversight and Government Reform Subcommittee on Federal Workforce, Post Office, and the District of Columbia, which took no public action. H.R. 1454 was also referred to the Natural Resources Subcommittee on Insular Affairs, Oceans and Wildlife where a markup was held on Wednesday, June 10, 2009. An amendment in the nature of a substitute was offered by Rep. Bordallo and was agreed to by unanimous consent. This legislation passed the House on December 7, 2009, by voice vote, and was referred to the Senate Committee on Homeland Security and Governmental Affairs. Senator Lieberman offered a substitute amendment, and the legislation passed the Senate on July 29, 2010, by unanimous consent, as amended.

**Cost to Taxpayers:** CBO estimates that implementing H.R. 1454 would add no significant discretionary cost to the federal government.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** House Report 111-358 offers no statement regarding earmarks, limited tax benefits, or limited tariff benefits. However, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** House Report 111-358 does not offer a statement on constitutional authority.

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## **H.R. 3470 — Nationally Enhancing the Wellbeing of Babies through Outreach and Research Now Act (*Cohen, D-TN*)**

**Order of Business:** H.R. 3470 is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** H.R. 3470, the NEWBORN Act, would authorize \$50 million in new funding for FY2011 – 2015 for “the creation and implementation of infant mortality pilot programs in standard metropolitan statistical areas with high rates of infant mortality.”

The bill requires the Secretary of Health and Human Services (HHS), acting through the Director of the Centers for Disease Control and Prevention (CDC) to award 5 year grants to eligible entities – defined as “a State, county, city, territorial, or tribal health department that has submitted a proposal to the Secretary that the Secretary deems likely to reduce infant mortality rates within the standard metropolitan statistical area involved.”

The Secretary is required to give preference to entities proposing to serve the 15 counties or groups of counties with the highest rates of infant mortality within the U.S. for the past 3 years. H.R. 3470 requires that an eligible entity shall not use more than 10 percent of grants received for program evaluation.

Funds can be used for infant mortality pilot programs that do the following:

- Develop a plan and strategies that identify and address the needs of each community to be served.
- Provide outreach to at-risk mothers (deemed appropriate by the Administrator) including programs to provide care to rural areas.
- “Develop and implement standardized systems for improved access, utilization, and quality of social, educational, and clinical services to promote healthy pregnancies, full-term births, and healthy infancies delivered to women and their infants.” Such systems can include counseling for care, feeding, and parenting, postpartum care, prevention of premature deliver, and additional counseling for at-risk mothers such as smoking cessation, drug and alcohol treatment programs, domestic violence programs, social and psychological services, and dental care among other programs.
- Establish a regional public education campaign, including a campaign to prevent preterm births; and educate the public about infant mortality.

Finally, the bill would require each entity that received a grant to report annually to the Secretary on the pilot program – including information on the methodology, outcomes and statistics.

**Committee Action:** H.R. 3470 was introduced on July 31, 2009, and referred to the House Committee on Energy and Commerce, which passed the bill by voice vote, as amended on July 28, 2010.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** CBO estimates that implementing H.R. 3470 would cost \$4 million in FY2011 and \$45 million over FY2011 – FY2015.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. H.R. 3470 creates a new \$50 million dollar grant program.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No. According to CBO, “H.R. 3470 contains no intergovernmental or private-sector mandates as defined in UMRA.”

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** In Committee Report [111-609](#), pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the constitutional authority for H.R. 3470 is provided in Article I, Section 8, Clauses 3 (regulate interstate commerce) and 18 (necessary and proper for executing foregoing powers) of the Constitution of the United States.

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## **H.R. 5756 — Training and Research for Autism Improvements Nationwide Act (*Doyle, D-PA*)**

**Order of Business:** H.R. 5756, the TRAIN Act, is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** H.R. 5756 would amend the Developmental Disabilities Assistance and Bill of Rights Act of 2000 to require the Secretary of Health and Human Services (HHS) to award two sets of grants authorized at \$90 million for FY2012 – FY2016. The bill would provide for “grants and technical assistance to improve services rendered to children and adults with autism, and their families, and to expand the number of University Centers for Excellence in Developmental Disabilities Education, Research, and Service.”

**Autism Spectrum Disorders Initiative Grants and Technical Assistance:** The first grant program, authorized at \$17 million annually for FY2012 – FY2016, would go to University Centers of Excellence to provide individuals (including individuals with autism spectrum disorder, their families, and health, vocational, and educational professionals) with interdisciplinary training, continuing education, technical assistance, and information to improve services rendered to children and adults with autism and their families, to address unmet needs related to autism.

The Secretary may take 2 percent of the authorized grant money to make a grant to a national organization to provide training and technical assistance to do the following:

- Assist in national dissemination of specific information "including evidence-based best practices, from interdisciplinary training programs, and when appropriate, other entities whose findings would inform the work performed by the University Centers of Excellence."
- Develop a web portal to link each of the individual training initiatives and provide access to items developed by grantees.
- Compile and disseminate strategies and materials for training and technical assistance in order for the entire network can benefit from items developed at individual centers.
- Assist in the coordination of activities of grantees.

- Convene experts to discuss and make recommendations regarding training issues related to assessment, interventions, services, treatment and support for individuals on the autism spectrum.
- Serve as a research-based resource for policy makers regarding the training and technical assistance for the assessment and support for individuals on the autism spectrum.

**Capacity Building Grants:** The second type of grant, authorized at \$1 million annually for FY2012 – FY2016, would be awarded to not more than 4 new University Centers to facilitate outreach and collaboration with minority institutions. The Secretary would be required to give priority to applicants that have demonstrated collaboration with minority institutions that have demonstrated the capacity to meet the requirements of this Act and provide services to individuals with autism and their families or are located in a state with one or more underserved populations.

**Additional Background:** The Developmental Disabilities Assistance and Bill of Rights Act of 2000 required the Secretary to award grants to interdisciplinary education, research, and public service units of universities or public or not-for-profit entities associated with universities to be designated "Centers of Excellence." Centers of Excellence - were created in each state "in order to provide leadership in, advise Federal, State, and community policymakers about, and promote opportunities for individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life." The Centers of Excellence must engage in "core functions" including:

- Provision of interdisciplinary pre-service preparation and continuing education of students and fellows, which may include the preparation and continuing education of leadership, direct service, clinical, or other personnel to strengthen and increase the capacity of States and communities to achieve the purpose of this title.
- Provision of community services that provide training or technical assistance as well as services, supports, and assistance through demonstration and model activities.
- Conduct of research, evaluation, and the analysis of public policy in areas that affect or could affect, individuals with developmental disabilities and their families.

**Committee Action:** H.R. 5756 was introduced on July 15, 2010, and referred to the House Committee on Energy and Commerce, which passed the bill by voice vote, as amended, on July 28, 2010.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** CBO has estimated the bill to cost \$55 million over the FY2011 – FY2015 period (subject to appropriation).

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. H.R. 5756 creates two new grant programs authorized at \$90 million over FY2012-2016.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No. According to CBO, “H.R. 5767 contains no intergovernmental or private-sector mandates as defined in UMRA.”

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, and there is no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing the constitutional authority for Congress to enact this bill is unavailable.

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## **H.R. 2923 - Combat Methamphetamine Enhancement Act (Gordon, D-TN)**

**Order of Business:** The legislation is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 2923 amends the Controlled Substances Act and mandates that businesses who sell of certain pharmaceuticals through the mail submit a self-certification statement to the Drug Enforcement Administration (DEA).

The Attorney General would be required to develop a list of self-certified individuals, and this list would be available to the public on the DEA’s website in downloadable format.

H.R. 2923 would also prohibit distributors of certain pharmaceuticals from selling products to individuals who have not registered or self-certified with the DEA.

This legislation will take effect 180 days after enactment.

**Committee Action:** H.R. 2923 was introduced on June 17, 2009 and referred to the House Energy and Commerce Subcommittee on Health. A subcommittee markup was held on July 21, 2010, and the legislation was approved by voice vote. A full committee markup was held on July 27, 2010, and the legislation was approved by voice vote. H.R. 2923 was also referred to the House Judiciary Subcommittee on Crime, Terrorism, and Homeland Security, which took no public action.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** CBO estimates that implementing H.R. 2923 would have no significant cost to the federal government.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** H.R. 2923 would impose private-sector mandates, as defined in UMRA, on distributors and retailers of certain pharmaceuticals. Distributors and retailers who sell such products by mail would be required to submit self-certification documents, including a statement acknowledging that they understand the law and will comply with the legal guidelines associated with the sale of those drugs. The bill also would prohibit anyone from supplying those products to a retailer unless the retailer has completed either the necessary self-certification or has otherwise registered with the DEA. Because the current self-certification list is available online and based on information from the DEA about compliance costs for that program, CBO estimates that the cost to the private sector would be small and well below the annual threshold established in UMRA (\$141 million for private-sector mandates in 2010, adjusted annually for inflation).

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Although the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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## **H.R. 3199 - Emergency Medic Transition (EMT) Act (*Harman, D-CA*)**

**Order of Business:** The bill is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** H.R. 3199 would establish a grant program under the Secretary of Health and Human Services, to assist veterans who received and completed military emergency medical training while serving in the Armed Forces of the United States to become, upon their discharge or release from active duty service, state-licensed or certified emergency medical technicians.

Funds made available from this grant program may be used for:

- “Providing to such veterans required course work and training that take into account, and are not duplicative of, medical course work and training received when such veterans were active members of the Armed Forces of the United States, to enable such veterans to satisfy emergency medical services personnel certification requirements in the civilian sector, as determined by the appropriate State regulatory entity;
- “Providing reimbursement for costs associated with—



- “Such course work and training; or
- “Applying for licensure or certification;
- “Expediting the licensing or certification process; and
- “Entering into an agreement with any institution of higher education, or other educational institution certified to provide course work and training to emergency medical personnel, for purposes of providing course work and training under this section if such institution has developed a suitable curriculum that meets the requirements of paragraph (1).”

An annual report is required to be sent to Congress regarding this new program. Also, the GAO is required to:

- “Conduct a study on the barriers experienced by veterans who received training as medical personnel while serving in the Armed Forces of the United States and, upon their discharge or release from active duty service, seek to become licensed or certified in a State as civilian health professionals; and
- “Not later than 2 years after the date of the enactment of this Act, submit to the Congress a report on the results of such study, including recommendations on whether the program established under section 315 of the Public Health Service Act, as added by subsection (a), should be expanded to assist veterans seeking to become licensed or certified in a State as health providers other than emergency medical technicians.”

This legislation authorizes for appropriation \$5 million for each fiscal year from 2011 through 2015.

**Committee Action:** H.R. 3199 was introduced on July 14, 2009 and referred to the House Energy and Commerce Subcommittee on Health. A subcommittee markup was held on July 21, 2010, and the legislation was approved by voice vote, as amended. A full committee markup was held on July 27, 2010, and the legislation was approved by voice vote.

**Administration Position:** No Statement of Administration Policy is available.

**Cost to Taxpayers:** This legislation authorizes for appropriation \$5 million for each fiscal year 2011 through 2015. CBO estimates that implementing the act would cost \$3 million in 2011 and \$23 million over the 2011-2015 period.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. The legislation creates a new grant program under the Department of Health and Human Services.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:**

Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** Although the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

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**H.R. 1745 - Family Health Care Accessibility Act (Tim Murphy, R-PA)**

**Order of Business:** H.R. 1745 is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** H.R. 1745 would amend the Public Health Service Act to expand the pool of individuals provided with liability protection under the Federal Tort Claims Act (FTCA) to include volunteer practitioners at Community Health Centers for purposes of any civil action due to providing care. Under current law, the FTCA provides liability protection (defends and pays claims) to certain individuals at health centers as they are considered employees of the federal government. The bill aims to help address workforce shortages at Community Health Centers by removing high medical liability cost barriers to encourage more practitioners to volunteer their time.

A health care practitioner is considered a "health professional volunteer" at a health center if the following conditions are met:

- Services provided are at the facilities of a "public or non-profit private entity receiving federal funds" for serving medically underserved areas (health center) or through offsite programs or events conducted by the entity.
- The health professional is sponsored by the entity (an entity must submit an application to the Secretary who will deem the practitioner as meeting the current requirements laid out under the PHSA)
- The practitioner does not receive compensation for providing services from the individual or a third-party payer.
- The practitioners, before providing service, posts a clear notice that their legal liability is limited due to being covered under the FTCA.
- The practitioner is licensed or certified with respect to applicable laws

Finally, the bill requires the Attorney General to issue a report annually to Congress with an estimate of the amount paid in claims (with other related fees) due to this Act for that fiscal year.

**Committee Action:** H.R. 1745 was introduced on March 26, 2010, and referred to the House Committee on Energy and Commerce, which passed the bill by voice vote, as amended, on July 28, 2010.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** CBO estimates that implementing H.R. 1745 would "cost \$1 million for 2011 and \$18 million over the 2011-2015 period, assuming the appropriation of necessary amounts." However, CBO found that the bill would require appropriations totaling \$6 million in 2011 and \$31 million for FY2011 – FY2015.

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. H.R. 1745 expands the coverage under the FTCA to additional health professional volunteers by deeming them employees of the federal government for the purposes of liability claims.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No. According to CBO, "H.R. 1745 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments."

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** In Committee Report [111-607](#), pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds that the constitutional authority for H.R. 1745 is provided in Article I, Section 8, Clauses 3 (regulate interstate commerce) and 18 (necessary and proper for executing foregoing powers) of the Constitution of the United States.

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## **H.R. 5710 - National All Schedules Prescription Electronic Reporting Reauthorization Act (Whitfield, R-KY)**

**Order of Business:** H.R. 5710 is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** H.R. 5710, the National All Schedules Prescription Electronic Reporting Reauthorization (NASPER) Act of 2010, would amend the controlled substances monitoring program under the Public Health Services Act and reauthorize \$15 million for FY2011 and \$10 million annually for FY2012 – FY2013. The bill amends the purpose of

the NASPER to “foster State-administered controlled substance monitoring systems” to ensure health care providers and law enforcement, regulatory, and licensing authorities have access to accurate prescription history to identify and prevent harm to at-risk patients and to investigate drug diversion and inappropriate prescribing patterns. H.R. 5710 would make improvements to the program including:

- Permitting funds to be used to “maintain and operate an existing State controlled substance monitoring program.”
- Requiring the Secretary to maintain – and as appropriate, supplement or revise - minimum requirements for criteria to be used by the States.
- Requiring State interoperability plans (required under current law for adjacent states with NASPER grants) to include timelines for implementation, to be monitored by the Secretary.
- Requiring the Secretary to redistribute returned funds to remaining grantees.
- Requiring states to give the Secretary aggregate data and information to evaluate success if their programs.
- Permitting entities receiving non-identified data from Prescription Drug Monitoring Programs to share that information for research purposes.
- Requiring a State receiving grants to take steps to facilitate prescriber use of the controlled substance monitoring system and education them of the benefits to both them and society.
- Expanding grant eligibility to commonwealths and territories of the U.S.

**Committee Action:** H.R. 1745 was introduced on July 1, 2010, and referred to the House Committee on Energy and Commerce, which passed the bill by voice vote, as amended, on July 28, 2010.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** CBO estimates that implementing H.R. 5710 would cost \$35 million over FY2011 – FY2015. NASPER was previously funded at \$15 million annually for FY2006 – FY2007 and \$10 million annually for FY2008 – FY2010. In FY2009 and FY2010, \$2 million was appropriated to support these grants in 13 states.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No. According to CBO, “H.R. 5710 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.”

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing the constitutional authority for Congress to enact this bill is unavailable.

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### **S.2781 - Rosa's Law (*Sen. Mikulski, D-MD*)**

**Order of Business:** The legislation is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the bill.

**Summary:** S. 2781 would make technical changes to several laws and regulations by eliminating references to “mental retardation” and replacing them with “intellectual disability.”

**Additional Information:** A similar bill, H.R. 4544, was introduced in the House by Rep. McMahon.

**Committee Action:** S. 2781 was introduced on November 17, 2009, and referred to the Senate Health, Education, Labor, and Pensions Committee, which held a markup and reported the bill, as amended by voice vote. The legislation then passed the Senate on August 5, 2010, by unanimous consent and was referred to the House Committee on Energy and Commerce and the House Committee on Education and Labor. Neither House Committee took public action.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** CBO estimates that S. 2781 would cost less than \$500,000, subject to the availability of appropriated funds.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** Yes. Section 4 of this legislation compels state to change terminology in state laws. Additionally, CBO states that “S. 2781 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal government.”

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though Senate Report 111-244 makes no mention of earmarks, tax benefits, or tariff benefits, the bill contains no earmarks, and the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** Senate Report 111-244 makes no mention of Constitutional Authority.

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## **H.Res. 1433 - Expressing support for designation of September 2010 as Blood Cancer Awareness Month (Jones, R-NC)**

**Order of Business:** The resolution is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** H.Res. 1433 resolves that the House of Representatives:

- “Supports the designation of Blood Cancer Awareness Month to enhance the understanding of blood-related cancers, increase support for funding research to find a cure for blood cancers, encourage studies of the cause and prevention of blood cancers to reduce the number of new cases, and enhance understanding of clinical trials to boost provider and patient participation and accelerate the pace of clinical research;
- “Encourages participation in voluntary activities to support blood cancer research and education; and
- “Respectfully requests the Clerk of the House to transmit a copy of this resolution to the American Society of Hematology, the International Myeloma Foundation, the Lymphoma Research Foundation, the Multiple Myeloma Research Foundation, and The Leukemia & Lymphoma Society voluntary health organizations dedicated to finding a cure for blood cancers.”

The resolution contains a number of findings, including:

- “Blood-related cancers currently afflict more than 900,000 people in the United States, with an estimated 150,000 new cases diagnosed each year;
- “Continued investment and innovation is critical to the early diagnosis and the more effective and safer treatment for blood cancers where research and treatment advances have to date been limited;
- “Survivors of blood cancer may experience serious late and long-term effects of their treatment and may need life-long follow-up and survivorship care;
- “The House of Representatives will continue to provide support for research for a cure for leukemia, lymphoma, multiple myeloma, myelodysplastic syndromes, and myeloproliferative disorders; and
- “September 2010 would be an appropriate month to designate as Blood Cancer Awareness Month.”

**Committee Action:** H.Res. 1433 was introduced on June 10, 2010, and referred to the House Energy and Commerce committee, which took no public action.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** A CBO report was unavailable at press time.

**Does the Bill Expand the Size and Scope of the Federal Government?** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** Though the bill contains no earmarks, and there's no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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## **H.R. 5809 — Safe Drug Disposal Act (*Inslee, D-WA*)**

**Order of Business:** H.R. 5809 is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** H.R. 5809 would amend the Controlled Substances Act (CSA) to provide for drug take-back disposal of controlled substances for ultimate users (the patient prescribed the drug) and authorized long-term care facilities on behalf of ultimate users, as defined by the Attorney General. Supporters argue that drug take-back programs are one way to address prescription drug abuse and protect the environment by reducing the amount of drugs entering the waterways after being flushed down the toilet.

**Delivery of Controlled Substances:** Specifically, H.R. 5809 would allow ultimate users (or in the case of death - any person lawfully entitled to dispose of the decedent's property) to deliver controlled substances to another person for the purpose of disposal if the individual receiving the drug is authorized to receive and dispose of the drug and the delivery and disposal takes place in accordance with regulations set forth by the Attorney General (in order to prevent diversion of the drug).

**Public Education Campaign:** H.R. 5809 creates a new public education and outreach campaign to increase awareness of how ultimate users may dispose of prescription drugs (including controlled substances) through drug take-back programs to be carried out by the Office of National Drug Control Policy (ONDCP) and the Environmental Protection Agency (EPA).

**GAO Report:** The bill requires the Comptroller General to collect data on the delivery, transfer, and disposal of controlled substances and a GAO report not later than 4 years after enactment regarding use, effectiveness and accessibility of disposal programs.

**EPA Study of Environmental Factors:** Finally, the bill requires the EPA to conduct a study to examine environmental impacts resulting from current disposal of controlled substances, formulate recommendations (taking into account the cost and ease of drug take-back programs) for prescription drug disposal, and if needed identify additional authority needed to carry out the recommendations. A report must be submitted to Congress not less than 18 months after enactment.

**Additional Background:** In January 2009, the DEA solicited public comments on the disposal of controlled substances, but has yet to move forward with regulations in the absence of authorizing legislation. This bill represents a melded version of previous drug disposal bills introduced by Judiciary Committee Ranking Member Lamar Smith and Representative Stupak (H.R. 1191) and Representatives Jay Inslee and Jerry Moran (H.R. 1359).

**Committee Action:** H.R. 5809 was introduced on July 21, 2010, and referred to the House Committee on Energy and Commerce, which passed the bill by voice vote, as amended, on July 28, 2010.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** CBO estimates that implementing H.R. 5809 would cost \$2 million in 2011 and less than \$500,000 annually over the 2012-2016 period. " CBO estimates that the public outreach campaign and the EPA study would cost about \$1 million each in 2011 and the GAO report would cost less than \$500,000 annually over the 2011-2014 period, from appropriated funds."

**Does the Bill Expand the Size and Scope of the Federal Government?:** Yes. H.R. 5809 creates a new public education campaign to be carried out by the ONDCP and the EPA.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No. According to CBO, "H.R. 5809 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments."

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, and there is no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing the constitutional authority for Congress to enact this bill is unavailable.



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## **H.R. 6130 - Strengthening Medicare Anti-Fraud Measures Act of 2010** **(Stark, D-CA)**

**Order of Business:** The resolution is scheduled to be considered on Wednesday, September 22, 2010, under a motion to suspend the rules and pass the resolution.

**Summary:** H.R. 6130 amends the Social Security Act to define “individuals who are affiliated with a sanctioned entity” that conducted Medicare fraud as individuals who:

- Are shareholders with a controlling interest in a sanctioned entity, or
- Knows or should know of such conduct occurring.

The legislation also defines affiliated entities, with respect to a sanctioned entity, as entities where:

- “One of the entities is a person with an ownership or control interest in the other entity (or had such an interest at the time of any of the conduct that formed a basis for the conviction or exclusion);
- “There is a person with an ownership or control interest in both entities (or had such an interest at the time of any of the conduct that formed a basis for the conviction or exclusion); or
- “There is a person who is an officer or managing employee of both entities (or was such an officer or managing employee at the time of any of the conduct that formed a basis for the conviction or exclusion).”

**Additional Information:** Information in this section was provided from the office of Rep. Wally Herger, an original cosponsor of H.R. 6130.

“In June, the Ways and Means Health and Oversight Subcommittees held a joint hearing to review efforts to combat fraud, waste, and abuse in the Medicare program.

As a result of the hearing, Herger and Stark introduced bipartisan legislation to enhance the HHS Office of Inspector General’s authority to combat Medicare fraud. We urge you to join us as a cosponsor of HR 6130, the Strengthening Medicare Anti-Fraud Measures Act.

In response to questioning by Committee Members, Mr. Lew Morris, Chief Counsel of the HHS Office of the Inspector General, suggested two changes in law that would assist their fraud fighting capability. His first recommendation was that OIG be provided discretionary authority to exclude executives whose companies have been convicted of Medicare fraud. Second, he suggested that the law be changed to better enable the OIG to

sanction parent companies that may be committing fraud but hiding behind corporate shells.

Under current law, executives whose companies are convicted of fraud can be excluded from Medicare. However, if the executive has left the company by the time of conviction, he or she cannot be barred from Federal health programs. These executives are able to move from one company to another and continue to defraud Medicare, seniors, and taxpayers.

Often these companies that engage in fraud have set up shell companies to insulate themselves from liability. Criminal settlement negotiations can result in the dissolution of these shell organizations with no real operational impact on the parent company. Without discretionary authority to exclude these parent companies from the program, the OIG is missing a tool in its arsenal that could allow the government to exclude or obtain stronger prospective remedies in settlements.”

**Committee Action:** H.R. 6130 was introduced on September 15, 2010, and referred to the House Energy and Commerce, and the House Ways and Means Committee. Neither committee took public action.

**Administration Position:** No Statement of Administration Policy (SAP) is available.

**Cost to Taxpayers:** A CBO report was unavailable at press time.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** No.

**Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** Though the bill contains no earmarks, and there’s no accompanying committee report, the earmarks rule (House Rule XXI, Clause 9(a)) does not apply, by definition, to legislation considered under suspension of the rules.

**Constitutional Authority:** A committee report citing constitutional authority is unavailable.

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